

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In Re:

W.R. GRACE & CO., et al.,

Debtors.

Chapter 11

**Case No. 01-1139 (JKF)
Jointly Administered**

**PRELIMINARY OBJECTION AND RESERVATION OF RIGHTS OF CERTAIN
LONDON MARKET INSURANCE COMPANIES TO THE DEBTORS' FIRST
AMENDED JOINT PLAN OF REORGANIZATION**

Parties in interest Certain London Market Insurance Companies identified on Exhibit "A" hereto (hereinafter referred to collectively as "Certain London Market Insurance Companies"), by their undersigned counsel, hereby submit this Preliminary Objection to confirmation of the First Amended Joint Plan of Reorganization, as amended (the "Plan") in accordance with the Initial Case Management Order. Certain London Market Insurance Companies hereby set forth their preliminary objections to the Plan as follows:

- The Debtors and Certain London Market Insurance Companies entered into a Confidential Settlement Agreement on November 17, 1995, with respect to insurance coverage for asbestos personal injury and property damage claims arising from alleged asbestos exposure ("1995 Asbestos Settlement"). The Plan cannot be confirmed because it would improperly assign the 1995 Asbestos Settlement and the right to the insurance policies which are subject to the 1995 Asbestos Settlement ("Subject Insurance Policies") to

the Asbestos Personal Injury Trust ("Asbestos PI Trust") without providing protection under Section 524(g) of the Bankruptcy Code.

- Two modifications to the Plan are necessary to ensure that Section 524(g) protection is extended to Certain London Market Insurance Companies. Exhibit 5 to the Plan should be modified to include the 1995 Asbestos Settlement and the Subject Policies. In addition, the definition of "Asbestos Insurance Settlement Agreement" contained in the Plan must be expanded to include coverage in-place agreements such as the 1995 Asbestos Settlement.
- The Plan cannot be confirmed because the Plan purports to assign the 1995 Asbestos Settlement to the Asbestos PI Trust but the Transfer Agreement excludes certain policies and London Market Companies which were subject to the 1995 Asbestos Settlement.
- The Debtor has not indicated whether it intends to accept or reject the 1995 Asbestos Settlement even though Certain London Market Insurance Companies have made inquiries of Grace as to the treatment of the 1995 Asbestos Settlement under the Plan.
- In the event the Debtor plans to accept the 1995 Asbestos Settlement, the Debtor must give assurances that it can perform its obligations under the 1995 Asbestos Settlement, which it has not done.
- The Debtor cannot assign its rights or obligations under the 1995 Asbestos Settlement to the Trust without the written consent of the London Market Companies. Such an assignment would be a modification, and Section XIX(A) of the 1995 Asbestos Settlement requires that such modification be in writing and signed by all parties.
- The Debtor cannot assign its rights to the policies, or to the proceeds of the policies, without the written consent of the London Market Companies.
- Certain London Market Companies in agreeing to execute the 1995 Asbestos Settlement, relied on the fact that the Debtor would aggressively defend claims in the tort system, as the Debtor had a strong interest in minimizing its losses. The Trust, as it will be controlled by the asbestos plaintiffs bar, has no such incentive. Therefore, Certain London Market Insurance Companies will be prejudiced if the 1995 Asbestos Settlement is assigned to the Trust absent assurances that Debtor will continue to perform its obligations under the 1995 Asbestos Settlement.

LIMITED JOINDER

London Market Companies join in the request for Plan Confirmation-related discovery as set forth in the Objections and Reservation of Rights of Fireman's Fund Insurance Company and Riunione Adriatica di Sicurtà to Debtors' Motion for an Order Approving Disclosure Statement, Solicitation and Confirmation Procedures, Confirmation Schedule and Related Relief.

RESERVATION OF RIGHTS

Certain London Market Insurance Companies expressly reserve all of their rights to further object to confirmation of the Plan on any and all grounds, including those set forth herein, after the completion of discovery with respect to the Plan and any party's objections thereto.

WHEREFORE, Certain London Market Insurance Companies preliminarily object to the confirmation of the Plan and respectfully request that the Court enter such relief as is necessary, proper, and just.

Dated: January 5, 2009

Respectfully submitted,

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